

**MINUTES OF THE  
SOUTH OGDEN CITY COUNCIL MEETING  
Tuesday, November 4, 2014 – 6:00 p.m.  
Council Chambers, City Hall**

**COUNCIL MEMBERS PRESENT**

Mayor James F. Minster, Council Members Sallee Orr, Wayne Smith, Brent Strate and Russ Porter

**COUNCIL MEMBERS EXCUSED**

Council Member Bryan Benard

**STAFF MEMBERS PRESENT**

City Manager Matt Dixon, City Attorney Ken Bradshaw, Parks and Public Works Director Jon Andersen, Chief of Police Darin Parke, Fire Chief Cameron West, and Recorder Leesa Kapetanov

**CITIZENS PRESENT**

Jim Pearce, Jeff Von Colln, Walt Bausman

**I. OPENING CEREMONY**

**A. Call to Order**

Mayor James F. Minster called the meeting to order at 6:05 pm and called for a motion to convene.

**Council Member Smith moved to convene as the South Ogden City Council, with a second from Council Member Strate. In a voice vote Council Members Strate, Orr, Porter and Smith all voted aye.**

**B. Prayer/Moment of Silence**

The mayor led those present in a moment of silence.

**C. Pledge of Allegiance**

Council Member Smith then directed everyone in the Pledge of Allegiance.

The mayor excused Council Member Benard who was unable to attend the meeting that evening. Mayor Minster then indicated it was time for public comments. He said no action would be discussed or taken on comments made that evening and those speaking should limit their comments to three minutes.

**II. PUBLIC COMMENTS**

There were no public comments.

### III. RECOGNITION OF SCOUTS/STUDENTS PRESENT

There were no scouts or students present.

### IV. CONSENT AGENDA

- A. Approval of October 21, 2014 Council Minutes
- B. Approval of October Warrants Register
- C. Approval of Bid Award to North American Salt Company for Road Salt

Mayor Minster read through the consent agenda and asked if there were any questions. Council Member Orr asked if any of the companies that bid were local. Parks and Public Works Director Jon Andersen answered that the company who won the bid was from Salt Lake City and their bid was the lowest; they did however, use a local trucking company to deliver the salt. There were no more questions. Mayor Minster called for a motion. Council Member Orr moved to approve the consent agenda.

**Council Member Porter moved to approve the consent agenda, items A, B and C as listed. The motion was seconded by Council Member Orr. There was no further discussion on the motion. The voice vote was unanimous in favor of the motion.**

**The consent agenda was approved.**

### V. DISCUSSION / ACTION ITEMS

- A. Consideration of Resolution 14-30 – Amending City Council Meeting Rules of Procedure

City Attorney Ken Bradshaw informed the council the changes to the rules of procedure were in response to recent requests by the council as well as changes in the state code made in recent years. The changes allowed more interaction between the public and the council during the public comment period. Mr. Bradshaw noted the other changes made in this amendment of the rules and procedures, including clarification between public meetings and public hearings, how the council could respond to comments made during the public comment section of the agenda, limiting comments from the public to three minutes (they had previously been listed as both three minutes and five minutes), and making minor style and grammatical changes to some of the wording to make the rules of procedure more understandable. He pointed out there was a red line version of the rules showing what had been changed, as well as a “clean” version with the changes incorporated. Council Member Orr asked a question concerning paragraph ten, which Mr. Bradshaw clarified for her. Council Member Strate then asked if state law required that public comment times be limited to three minutes. Mr. Bradshaw said it was not a state requirement; since both three and five minutes had been set in the previous rules, staff had simply chosen the three minute response time so that all times would be consistent. He stated the council could set the time to anything they wished. Mr. Strate commented that five minutes seemed to be friendlier to the public. There was discussion by the council on the matter; the point was made that five minutes was friendlier, but in cases where there were many people wanting to comment, three minutes was more practical. Council Member Strate then said he would like to table the matter so he could have more time to think about it. The mayor told Mr. Strate he would need to make a motion to do so.

**Council Member Strate moved to table Resolution 14-30, followed by a second from Council Member Orr. The mayor then called the vote:**

Council Member Strate-	Aye
Council Member Orr-	Aye

Council Member Porter-	Nay
Council Member Smith-	Nay

The vote was tied, so Mayor Minster cast the deciding vote. He indicated that since there was not a time restraint with this resolution, he saw no harm in tabling it. He voted aye.

The motion to table carried.

**B. Consideration of Resolution 14-31 – Approving a Franchise Agreement With Syringa**

City Manager Bradshaw explained that franchise agreements were governed by state law as well as city ordinance, and that state law required cities to give all those seeking franchise agreements the opportunity to come to their city; i.e. we could not deny this agreement. The city was also required to charge the same franchise fee to similar type companies. Council Member Orr commented she was glad Mr. Bradshaw explained the city's obligations, as she would have voted not to allow them into the city. Ms. Orr was concerned that they would tear up the city's roads that had recently been redone. Mr. Bradshaw said he understood her concerns, and that anyone working in our roads would have to obtain permits to do so and adhere to our standards in replacing them. Council Member Strate said he knew the public works department was working on evaluating road cut fees; he wanted to make sure the fees were adequate enough to cover any costs to the city and make sure our roads were in good condition. Mr. Bradshaw indicated all franchise agreements stated that the company entering into the agreement had to abide by the city's road standards and fees, even if the standards or fees were to change during the term of the agreement. There was no more discussion by the council. Mayor Minster called for a motion.

**Council Member Porter moved to approve Resolution 14-31, approving a franchise agreement with Syringa. The motion was seconded by Council Member Smith. The mayor asked if there was further discussion, and seeing none, he called the vote:**

Council Member Porter-	Yes
Council Member Smith-	Yes
Council Member Strate-	Yes
Council Member Orr-	Yes

**Resolution 14-31 passed.**

**C. Discussion on Amending the Annexation Plan**

City Manager Dixon indicated this item had been placed on the agenda at the request of Council Member Smith. Mr. Smith said it had been almost a year since they had asked the planning commission to look at the annexation policy plan, and he wanted to know what progress had been made.

City Manager Dixon said the planning commission had discussed the matter and determined they needed more information to make a recommendation. The engineer had then taken time to complete a report, but it was only on the area south of the junior high. The planning commission had then discussed the issues involved in the annexation of that area; those minutes were included in the packet. The planning commission had then requested the same type of report by the engineer for the Uintah Highlands area and was waiting for the engineer to get back with it.

The city council discussed the matter of whether the areas should be in the city's annexation plan. They reviewed the planning commission's comments and reasons for recommending against adding the area south of the junior high to the plan, as well as the fact that the area was in Washington Terrace's annexation plan.

City Manager Dixon reminded the council of an interlocal agreement entered into with Washington Terrace that “drew the lines in the sand” concerning what portions of the area in questions would be serviced by South Ogden and which would be serviced by Washington Terrace.

Council Member Strate said he would still like more information on how and if South Ogden could provide services to the area; if it was not financially viable, he wanted to know.

Council Member Smith suggested all the information be compiled and a work session be scheduled.

City Manager Dixon asked the council to clarify what they wanted. Did they want to remand it back to the planning commission and go through the correct process of having a public hearing, making a recommendation to the council and having the council have the final say of whether it should be added or not? Or did the council want more information before that and have a work session. The council determined they wanted more information on exactly how the water and sewer would be handled in the area and the costs involved and then have a work session to discuss it.

**D. Discussion on Glasmann Park Property Line**

City Manager Dixon reminded the council they had been approached about selling a portion of Glasmann Park to an adjoining land owner earlier in the year. At that time, the council had determined they were not interested in selling the property. However Mr. Von Colln, the landowner, had found another way of adjusting the lot lines in the area that would involve the city deeding property to a landowner as well as having property deeded back to the city in order to clean up some odd configurations in that area of Glasmann Park and the properties surrounding it. Mr. Dixon said he and Mayor Minster and Parks and Public Works Director Jon Andersen had met at the area under question, and felt the changes would better reflect the actual layout and care of the park property as it currently existed. Mr. Dixon said if the council was conceptually in favor of the change, Mr. Von Colln would go to the expense of having the area surveyed in preparation for the adjustments. Council Member Porter stated that if all the property owners were in agreement, he supported the changes; it looked like it made a lot of sense. Mayor Minster agreed. Council Member Orr agreed this looked much better than the original proposal. It would also get rid of an odd triangle of city property that might become a dangerous area of the park. Council Member Strate agreed.

City Manager Dixon and City Attorney discussed the process of making the changes. Mr. Bradshaw said he would have to do some research, but his initial thought was the property being given up by the city would need to be declared surplus to the city’s needs.

Staff was directed to determine what the process was and get the information to the council.

**VI. DEPARTMENT REPORTS**

**A. Parks and Public Works Director Jon Andersen – Project Updates**

Mr. Andersen said he only had a few projects to report on:

**1075 East Road Project** - 90% of the concrete work was completed as well as 50% of the asphalt. There would just be manhole valves and landscaping left after that.

**Overlay Projects** – were completed other than raising the manhole valves and covers.

**40<sup>th</sup> Street Storm Sewer Project** - this project was complete. The striping on the road just needed some touch-up work.

Mr. Andersen then reported he had contacted someone about sidewalk grants and was waiting for information. He had also contacted UDOT concerning the timing on the crosswalk on Crestwood Drive and Highway 89. He would keep the council up to date as they found more information about it.

## **VII. REPORTS**

- A. **Mayor** –had attended the grand opening for the new car wash the previous week. The owners had expressed interest in getting involved with the city. The mayor also reminded those present of the Veteran’s Memorial event which would take place on Wednesday, November 12<sup>th</sup>.

B. **City Council Members**

**Council Member Porter** – nothing to report.

**Council Member Orr** – reported a pot hole to Mr. Andersen. It was located on 40<sup>th</sup> Street close to where the recent construction had taken place. There was also a street light out on the corner of Vista and Madison.

**Council Member Strate** – had a concern with the Adams Avenue construction in Washington Terrace; he believed some of the property along the street belonged to South Ogden and he wanted to make sure it was properly landscaped.

**Council Member Smith** – reported street lights out at Ben Lomond and Glasmann and 42<sup>nd</sup> and Madison.

- C. **City Manager** – because there was so much going on in the city, he asked the council members to check their email often.  
He then reported a meeting with UDOT and UTA concerning 40<sup>th</sup> Street. They had discussed the impacts of going from an 84 foot wide street to 106 feet. The impacts were significant and would increase the costs between five and six million dollars. There had been some discussion about keeping the street narrower but having mixed flow and not having a dedicated lane for bus service. Mr. Dixon felt it was a good alternative and would keep costs down. They were still looking at all the options as well as funding.  
He then reminded the council of the rebranding meeting on November 12<sup>th</sup>; the planning commission would also be invited. There would also be a combined meeting on form based zoning on November 25<sup>th</sup>. Because of the extra number of meetings in November, the fire department had decided to move the table top emergency training exercise to December or January.

- D. **City Attorney Ken Bradshaw** – nothing to report.

## **VIII. ADJOURN CITY COUNCIL MEETING AND CONVENE INTO WORK SESSION**

Mayor Minster indicated it was time to hold a work session and entertained a motion to do so.

**Council Member Porter moved to adjourn city council meeting and convene into a work session. Council Member Strate seconded the motion. All present voted aye.**

Note: The council took a short break before beginning the work session. The work session took place in the council chambers.

A. **Discussion on GRAMA Fees**

City Recorder Leesa Kapetanov reminded the council the consolidated fee schedule had recently been changed to accommodate some adjustments to GRAMA fees. Staff had become aware of some issues with the wording in the fee schedule and on the GRAMA

request forms which might mislead someone into thinking they would always get a request filled for free if it were requested in electronic format; however that was not the intent of the changes. Police reports were \$25 no matter what format they were sent out, and any request that took over 15 minutes to fill would also cost according to the amount of time it took to fill the request. Staff wanted to make sure it was the council's intent that there would be costs with some requests and that police reports would remain \$25. Staff would also work on the wording of the fee schedule and the GRAMA request form to make sure it was clear.

The council discussed the matter and agreed that fees should be charged for staff time spent in preparing requests and the police records should remain at \$25. Staff was directed to adjust the wording to make it clearer.

**B. Continuation of Discussion on City Ordinance/Land Use**

City Manager Dixon referred the council to the "Authorities Chart" included in the packet. He also reminded them of the discussions on legislative, administrative and quasi-judicial decisions and the differences between them. The council had requested that the chart included at the last meeting be expanded to include everything in the code so the council could have a clearer picture of how authority had been delegated; this chart showed everything.

City Attorney Bradshaw advised the council to decide what rules, regulations and programs they wanted to implement, decide who would apply them, and then decide to whom they should be appealed. City Manager Dixon said once the council had determined what their policy and intent was, staff could make changes to the details of the code to reflect it.

Council Member Strate said he thought the code would be fine as is if the last three sections of Ordinance 13-11 were removed and the code went back to its original wording (he clarified the sections that should be taken out were the ones referencing 10-1-14, 10-10B-10 and 12-3-5). City Manager Dixon feared that removing the sections may bring a host of other issues, such as the council having to be very careful as to when they could listen to public clamor and when they could not. Council Member Strate said people had been frustrated with the recent issue over the monastery property because of the confusion of how it would be appealed. City Manager Dixon asked what the council gained, as the elected body, by putting themselves in the position where they heard appeals. Council Member Smith said he did not want to get in the habit of hearing appeals on specific cases. If someone wanted to change a rule or law, they could come to him as a member of the council to get it changed, but it was the hearing officer's job to interpret the law and how specific cases applied. Council Member Orr said the ordinance was hard to understand and needed to be made clearer. Council Member Strate said he felt he did not understand what he had voted on when he had voted on Ordinance 13-11. The council needed to have more responsibility on what was in a document, perhaps have it red-lined so they could see what changes were being made. He also suggested some rules be put in place that would prolong decisions to give the council more time to consider them. He then rehearsed to the council what had brought on the initial change to the ordinance in making the council the appeal authority on conditional uses.

City Attorney Bradshaw pointed out the changes that had been made were legislative. He gave some examples of administrative decisions such as reviewing applications for food carts in the city; the council had already passed legislation on where the food carts could be permitted and staff simply allowed or denied them according to where the council had determined through legislation they could be allowed. The same was true for conditional uses. The council had already passed legislation saying what uses were conditional in what zones, and it was up to the planning commission to review the application and allow or deny it based on the legislation.

There was more discussion on legislative versus quasi-judicial decisions. Mr. Strate re-stated that he wanted the council to be the final say on conditional use permits. Attorney Bradshaw reminded him that in order to do so, the council could not listen to public clamor, or they would set themselves up for litigation. City Manager Dixon pointed out that on legislative decisions, the council should and did listen to public clamor; however, to decide on conditional use permits, they would have to not listen to public clamor. They would have to “switch” it off and stay true to what the code was and apply the request to the code. It would be very difficult to do. After more discussion, Council Member Strate said he liked the code, and liked Ordinance 13-11, except for the last three as discussed earlier. As the code was now, it did not fit with what he thought his responsibilities to his community were as a city council member. He reiterated that he wanted the process to go back to a three step process as it existed before Ordinance 13-11. Council Member Porter went through the scenario of what would have happened with the monastery conditional use had it gone through the process in place before Ordinance 13-11. He said the neighborhood surrounding the monastery property were frustrated that it didn’t come before the council because they wanted the council to vote against it. Mr. Strate said that wasn’t what they wanted. Council Members Porter and Smith said that is what people in the neighborhood had told them on many occasions. Mr. Bradshaw said many had said the same thing at the podium. Council Member Orr said those she had spoken with wanted it to come before the council so that some issues in the decision could be clarified. Council Member Porter stated the council had already set down the laws, and approving a conditional use shouldn’t have to come back to them. Council Member Strate said he wanted to clarify that the residents were never against the use; only two had said “not in my backyard”. He said the residents were against the size, scope and wanted clarification of what the use was; that was completely different from being against the use. City Attorney Bradshaw reminded them that whether one or a thousand said “not in my backyard”, it was still public clamor, and the council could not consider it in approving a conditional use.

Mayor Minster said the fact was apparent that something needed to be done, but they hadn’t accomplished anything that evening. It was clear the council’s job was legislative, and they needed to start looking at things that way. He suggested staff start working on the things that needed to be changed in the code. Mr. Dixon said staff needed more direction; they could go through the code and update in every section the changes made by Ordinance 13-11, but if 13-11 might be changed, they should wait. Council Member Porter said the acceptable uses needed to be decided. Mr. Dixon said the planning commission was working on the uses and hoped to have them completed by their next meeting. Council Member Smith said it was the council’s job to identify legislation that wasn’t working and fix it. Mr. Dixon said there were some items in the code that clearly needed fixing that staff could work on, however there were some policy decisions that needed to be made before they could proceed with other issues in the code. Council Member Porter said he did not think the council was in agreement as to what their role was and the policy concerning it and they needed to sort it out.

City Manager Dixon recounted how and why many cities had gone away from using a Board of Adjustment. The boards met so infrequently that each time they met, they would have to be re-trained and reminded what they could and couldn’t do. The untrained members of the boards had to make land use decisions on things that could be a large liability to the city. Mr. Dixon pointed out how many discussions the council had already had on land use, and he still sensed there was some confusion amongst them on administrative versus legislative decisions. If the council were to hear conditional use applications, the problem would be the same as with the boards of adjustment; they would have to be retrained and reminded each time, and as the council changed, the challenge to retrain new members would be difficult. Staff’s recommendation was that the council remain legislative and not make administrative or quasi-judicial decisions.



Council Member Strate said he was willing to let go of the past, but he was adamant that everyone stop attacking his friends and neighbors. He said he was trying to be objective about things, but he knew who his friends and neighbors were and talking about them was an emotional tipping point for him. City Manager Dixon said he would like to make a statement on behalf of staff, because there had been allegations and inferences that staff had not been honest and not followed the process correctly. He said that no city staff had ever intentionally tried to hide, mislead, or misrepresent. He said they had not done everything absolutely right and had tripped and stumbled through the process, but there had been things said by residents about staff that were very unfair and untrue. Council Member Smith agreed. Everyone needed to let go and move on and not hold things against other people.

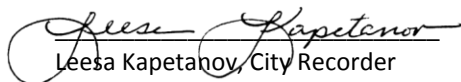
City Manager Dixon said staff could begin working on the obvious corrections that needed to be made to the code. The council discussed the matter and determined they would like more time to go over some of the code and the issues, including permitted and conditional uses. City Recorder Leesa Kapetanov suggested the council familiarize themselves with the parts of the code that dealt with permitted and conditional uses, as well as learning what the definitions of the uses were. She also suggested they read the chapters on PRUD's and Cluster Subdivisions. Council Member Strate said he was in favor of completely doing away with conditional uses and had called other cities that had done so. There was no more discussion.

Mayor Minster then called for a motion to adjourn.

#### **IX. ADJOURN WORK SESSION**

**At 9:04 pm, Council Member Smith moved to adjourn. The motion was seconded by Council Member Orr. All present voted aye.**

I hereby certify that the foregoing is a true, accurate and complete record of the South Ogden City Council Meeting held Tuesday, November 4, 2014.

  
Leesa Kapetanov, City Recorder

Date Approved by the City Council \_\_\_\_\_ November 18, 2014 \_\_\_\_\_